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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,999	03/28/2001	Norbert Egger	66775-002-7	9755

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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

NGUYEN, TAM M

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 02/11/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,999

Applicant(s)

EGGER, NORBERT

Examiner

Tam Nguyen

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 10-18, 20, 22-31 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-5, 9, 32, 33 and 40 is/are objected to.
- 8) ☒ Claim(s) 19, 21 and 34-39 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8 & 13.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species B, Fig. 3 embodiment in Paper No. 12 is acknowledged. Claims 6-8, 10-18, 20, 22-31, and 41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species A, C and D, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 12.
2. Claims 19, 21 and 34-39 are also withdrawn from further consideration as being drawn to non-elected Species A, C or D. Regarding claim 19, the various "working means" appears to be disclosed by non-elected Species D, Figs. 10 and 15. Regarding claim 21, a "control means" is described in the Specification on Page 16 in paragraphs 2 and 3 as being part of non-elected Species C, Figs. 4 and 5. Regarding claims 34-39, the elected species B does not disclose: a method for "monitoring the circulatory system" and adapting the pressure reduction, a method for "controlling the treading resistance in accordance with the pulse rate of a person", and a method for "increasing resistance".

Drawings

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a "main chamber 102" and an "opening 108" in referenced Fig. 10 as described in Page 18, lines 4 and 6. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to

avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "adjustable feet 150 having rollers 151", "adjustable latches 152" on Page 20, Paragraph 3 and "housing 158" on Page 21, Paragraph 1. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the adjustability of the "seat" in claim 9, "closing seals" of claim 33 and "sealing means" of claim 32 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities:

Page 14, line 10, delete "vacuum pump 1" and insert --vacuum pump 7--.

Page 17, line 11, delete "food attachments" and insert --foot attachments--.

Page 18, line 17, delete "work-out device 5" and insert --work-out device 105--.

Appropriate correction is required.

Claim Objections

7. Claims 1-5, 9, 32, 33 and 40 are objected to because of the following informalities:

Claim 1, line 4, delete "with a work-out device" and insert --the apparatus comprising a work-out device--.

Claim 32, line 4, delete "comprising" and insert --the apparatus comprising--.

Claim 32, line 6, delete "the legs" and insert --the person's legs--.

Claim 33, line 13, delete "suing" and insert --using--.

Claim 40, line 2 delete "skin using apparatus for" and insert --skin,--.

Claim 40, line 4, delete "comprising" and insert --the apparatus comprising--.

Claim 40, line 10, delete "pressure wherein;" and insert --pressure increase--.

Claims 2-5 and 9 are objected to for being dependent on an objected base claim.

Appropriate correction is required.

Allowable Subject Matter

8. Claims 1-5, 9, 32, 33 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dillon '079, Weyergans '946, Newman '527, Hadfield '631

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 703-305-0784. The examiner can normally be reached on M-F.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 4, 2004


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700